

E. Reconsideration of a Case on the Basis of Newly Discovered Circumstances

1. Grounds for Reconsideration of the Case

A decision of the arbitrazh court of any level may be reconsidered on the basis of newly discovered circumstances. Newly discovered circumstances are not simply new evidence that was not presented at the original consideration of the case. In order to justify the reconsideration of a case, the party petitioning for such reconsideration must show:

- ▣ circumstances having significance for the resolution of the case that were not and could not have been known to the petitioner at the time of its consideration;
- ▣ the deliberately false character of evidence or information provided to the court which resulted in the adoption of an illegal or unsubstantiated decision. This may include false witness testimony or expert conclusions, incorrect interpretation or translation of evidence or testimony provided in a language other than Russian, and/or falsified documents or physical evidence. The deliberate falsity of the evidence or information must be established by a judgment of a court that has entered into legal force;
- ▣ criminal actions of the parties to the case or their representatives, or of the judges in consideration of the case, as established by the judgment of a court that has entered into legal force; or
- ▣ the reversal of an act of the arbitrazh court or of another court or of the decree of another state body that served as the basis for the original decision.

In order to serve as grounds for the reconsideration of a case, the reversal of an act or decree of a court or of another state body that served as the basis for the original decision must be a direct reversal of the specific act or court decision, and the decision or act reversed must have been the basis of the arbitrazh court's ruling in the case to be reconsidered. A later change in the interpretation of a legal provision or the adoption of a new legal rule in the area is not sufficient.

2. Procedure for Submission of a Petition

A petition to reconsider a case on the basis of newly discovered circumstances must be made by a person participating in the case within one month of the time that the circumstances serving as grounds become known to that person. The petition must be forwarded to the other persons who participated in the case, along with appended documents that they do not have, and the evidence of this must be filed together with the petition and its attachments in the arbitrazh court.

3. Consideration of the Petition and Effects of its Satisfaction

A petition for the reconsideration of a case on the basis of newly discovered circumstances must be considered by the arbitrazh court in a session within one month of its acceptance. Petitions for the reconsideration of a decision of the arbitrazh courts of the first instance are considered by the same court that issued the decision. Petitions for the reconsideration of a decision at the appeals level, at the cassational level, or in supervisory proceedings that changed a court decision previously issued or that adopted a new decision are to be considered by the court that made the change or adopted the new decision. The court considering the case may either reject the petition for reconsideration of the case or may satisfy the petition by reversing the court decision in the case. If the court decision is reversed, the case must be considered (again) by an arbitrazh court under the general procedural rules applicable to the level at which it is being considered. There is no provision in the APC at the present time that would provide for the separation of a portion of a case to be reconsidered, if the grounds for reconsideration affect only a portion of a complex decision.